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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,215

04/26/2006

Harn Lian Lam

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,215	Applicant(s) LAM ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/20/07 & 4/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Comments

1. It is noted that the following is a first action on the merits for the claim set on record submitted with the preliminary amendment dated March 12, 2007.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “protrusion” [claim 4] must be shown/referenced or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the phrase “the upper surface of said intermediate pull out channel section” does not have a proper antecedent basis. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over German publication DE 4432821. DE`821 (figures 1-7) teaches of a drawer guide rail assembly (fig. 3) mounted for a guided and stabilized in and out movement with respect to a furniture member (14) comprising: a fixed guide (12) for attachment to an inner sidewall of said furniture member and having at least one running surface (along 20); an intermediate pull out channel (30) capable of sliding back and forth relative to the fixed guide on the running surface of the fixed guide, an upper surface of the

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intermediate pull out channel section providing a second running surface (fig. 3); a first roller bearing (26) positioned within the intermediate pull out channel for enabling sliding movement of the intermediate pull out channel on the fixed guide; an outer pull out channel (40) for attachment to an undersurface of a drawer (fig. 3) capable of sliding back and forth on the intermediate pull out channel relative to the intermediate pull out channel; and a second roller bearing (42, 44) positioned within the outer pull out channel for enabling sliding movement of the outer pull out channel on the intermediate pull out channel; wherein the fixed guide running surface is a profile flange extending upwards; drawer guide rail assembly further comprises a stabilizing means (48a for example) positioned between the intermediate pull out channel and the outer pull out channel; and the stabilizing means includes a shoulder (viewed as the left and right sections of fig. 4) which is horizontally extended (depends upon the viewed orientation of the assembly – when inverted 90 degrees the shoulder sections would be along a horizontal plane) from each side of the stabilizing means to be fitted with the second roller bearing for guiding and stabilizing the movements of the outer pull out channel relative to the intermediate pull out channel, wherein the stabilizing means is in the form of a metal sheet having inclined sides (metal cross-hatched depiction - fig. 3), wherein the stabilizing means has its width wider than the width of the intermediate pull out channel (fig. 3), wherein the stabilizing means includes a protrusion (46) formed at the upper end of the stabilizing means for retaining the second roller bearing in position during movement, wherein the stabilizing means is detachably positioned between the intermediate pull out channel and the outer pull out channel as readily apparent to the examiner. DE`821 teaches applicant's inventive claimed drawer guide rail assembly as disclosed above, but does

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not show the flange profile as being “T-shaped”. However, the position is taken that it would have been an obvious matter of personal preference to vary the profile shape of an element depending upon the needs and/or preferences of the user, since such a modification would have involved a mere change in the shape of a component. A change of this scope is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.). Furthermore, the Federal Circuit has held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984).

7. Claims 1-3 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung [U.S. 2003/0197452]. Kung (figures 1-2) teaches of a drawer guide rail assembly (fig. 1) mounted for a guided and stabilized in and out movement with respect to a furniture member (2) comprising: a fixed guide (10) for attachment to an inner sidewall of said furniture member and having at least one running surface (along 11); an intermediate pull out channel (30) capable of sliding back and forth relative to the fixed guide on the running surface of the fixed guide, an upper surface of the intermediate pull out channel section providing a second running surface (fig. 1); a first roller bearing (41, 42 or 43)) positioned within the intermediate pull out channel

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for enabling sliding movement of the intermediate pull out channel on the fixed guide; an outer pull out channel (20) for attachment to an undersurface of a drawer (3) capable of sliding back and forth on the intermediate pull out channel relative to the intermediate pull out channel; and a second roller bearing (51, 52) positioned within the outer pull out channel for enabling sliding movement of the outer pull out channel on the intermediate pull out channel; wherein the fixed guide running surface is a profile flange extending upwards; drawer guide rail assembly further comprises a stabilizing means (viewed as the central portion of 31 for example) positioned between the intermediate pull out channel and the outer pull out channel; and the stabilizing means includes a shoulder (viewed as the left and right folds of fig. 1) which is horizontally extended from each side of the stabilizing means to be fitted with the second roller bearing for guiding and stabilizing the movements of the outer pull out channel relative to the intermediate pull out channel, wherein the stabilizing means is in the form of a metal sheet having inclined sides (metal cross-hatched depiction - fig. 1), wherein the stabilizing means has its width wider than the width of the intermediate pull out channel (fig. 1), wherein the stabilizing means is positioned between the intermediate pull out channel and the outer pull out channel. Kung teaches applicant's inventive claimed drawer guide rail assembly as disclosed above, but does not show the flange profile as being "T-shaped" or show the stabilizing means as being a separate element that is distinct from the intermediate pull out channel. As to the shape of the flange, the position is taken that it would have been an obvious matter of personal preference to vary the profile shape of an element depending upon the needs and/or preferences of the user, since such a modification would have involved a mere change in the shape of a component. A change of this scope is

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generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.). Furthermore, the Federal Circuit has held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Gardner v. TEC Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). As to the incorporation of a distinct stabilizing means, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the stabilizing means separable since it has been held that constructing a formally integral structure into various elements, where the elements perform the same function as the integral structure, involves only routine skill in the art. *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961) (The claimed structure, a lipstick holder with a removable cap, was fully met by the prior art except that in the prior art the cap is “press fitted” and therefore not manually removable. The court held that “if it were considered desirable for any reason to obtain access to the end of [the prior art’s] holder to which the cap is applied, it would be obvious to make the cap removable for that purpose.”).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kung in view of Rock et al., [U.S. Patent 5,344,227]]. Kung teaches applicants inventive

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claimed drawer guide rail assembly as disclosed above, but does not show the stabilizing means as including a protrusion for retaining a bearing. Rock (figures 1-16) is cited as an evidence reference to show that it was known in the drawer slide art to incorporate a protrusion (12) in order to serve as a stop for a bearing assembly (fig. 3). As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the assembly of Kung in order to incorporate a protrusion in view of Rock's teaching because this arrangement would provide Kung with a simple yet effective means for limiting the travel of a bearing assembly.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lautenschlager and Compagnucci describe drawer guide rail assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/
Primary Examiner, Art Unit 3637

JOH
March 14, 2008